



**Land Use Petition RZ-22-0010**  
**Public Participation Meeting: January 9, 2023**  
**Planning Commission Meeting: April 10, 2023**  
**City Council Meeting: April 25, 2023**

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**PROJECT LOCATION:** 10805 State Bridge Road

**DISTRICT/SECTION/LAND LOT:** 1st District, 1st Section, Land Lot 169

**ACREAGE:** 0.84 acres

**CURRENT ZONING:** C-1 (Community Business District) Conditional

**PROPOSED ZONING:** C-1 (Community Business District)

**COMPREHENSIVE PLAN  
COMMUNITY AREA DESIGNATION:** Ocee

**APPLICANT:** Abid Khutliwala  
4788 Jonesboro Road  
Union City, GA 30291

**OWNER:** Hudgens Company, LP  
P.O. Box 988  
Johns Creek, GA, 30096

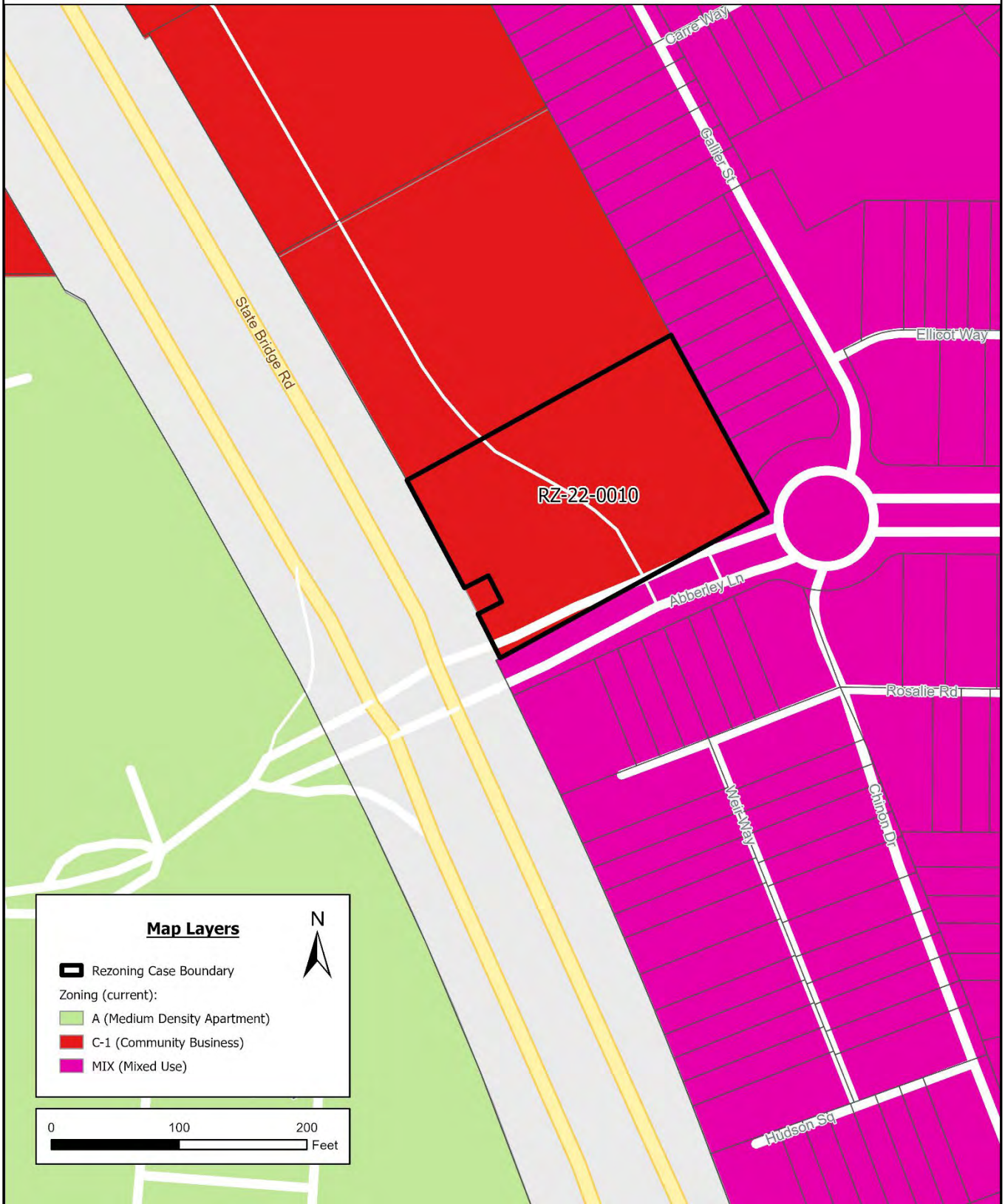
**PROPOSED DEVELOPMENT:** Change in conditions to allow for an 888 square-foot drive-through only Tim Hortons coffee shop

**STAFF RECOMMENDATION:** **Approval with Conditions**

Aerial Map



# Zoning Map



## **PROJECT OVERVIEW**

### **Location**

The 0.84-acre tract is located at the northeast quadrant of the intersection of State Bridge Road and Abberley Lane. The subject property is bounded by Mavis Tire shop to the north, Abberley Township subdivision to the east and south, and State Bridge Road to the west.

### **Background**

The site is currently zoned C-1 (Community Business District) Conditional, pursuant to rezoning case RZ-15-006, allowing for retail and commercial uses with a building up to 4,800 square feet in size, and excluding billboards, funeral homes, parking lots, personal care homes/assisted living facilities and service stations.



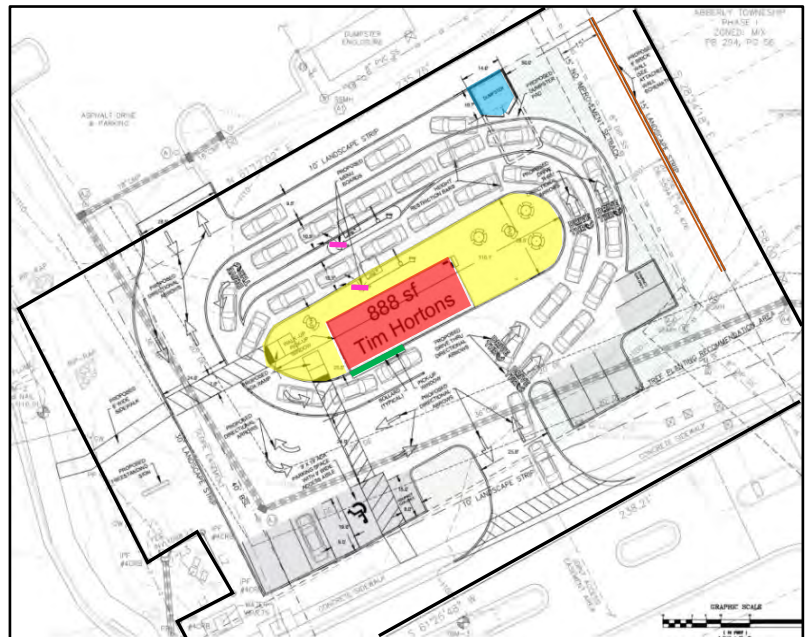
The subject property is vacant and served by a full-access curb cut off Abberley Lane, a private drive under the ownership of Abberley Township Homeowners Association. The site is also accessible from adjacent commercial properties to the north (Mavis Tires & Brakes and Advance Auto Parts), which are served by a right-in/right-out curb cut off State Bridge Road.

### **Rezoning Request**

The Applicant is requesting to revise the approved site plan to allow for an 888 square-foot drive-through only Tim Hortons coffee shop.

### **Site Plan**

The site plan shows an 888 square-foot, drive-through only coffee shop (shown in red) with an outdoor patio on both sides of the building (in yellow). The plan also shows a single pick-up window (in green) fed by two drive-through lanes providing stacking for up to 27 vehicles. The proposed menu boards (in pink) and speaker posts are placed approximately 125 feet from the east property line. A total of 11 parking spaces are proposed to serve the site.



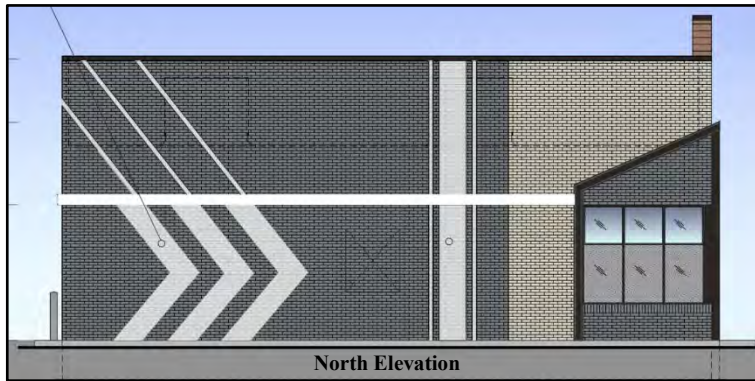
The Applicant has proposed sidewalks and crosswalks connecting the existing sidewalk along State Bridge Road and Abberley Lane to the walk-up window and outdoor patio. The Applicant is also proposing an 8-foot tall brick wall along the east property line to alleviate any potential impacts associated with noise and lighting.

This proposal will provide a 15-foot landscape strip and an additional 15-foot improvement setback along the east property line (adjacent to townhomes in Abberley Township), a 30-foot landscape strip along

State Bridge Road, and a 10-foot landscape strip along Abberley Lane and the north property line. The Applicant will utilize an existing off-site detention pond and construct on-site bio-retention areas to meet the City’s stormwater management requirements.

**Elevations**

The submitted elevations indicate the building façade would be constructed primarily of brick and glass, which are compliant with the requirements of Section 12E.3.E. of the Zoning Ordinance. The building has a flat roof design with architectural elements such as glass windows, varied brick color and woodlike aluminum siding, providing variation in the building façade.



**Public Participation**

As part of the required land use petition process, property owners within one-quarter mile of the subject property were mailed notices in December 2022 for the public participation meeting. The meeting was held in the City’s Council Chambers on January 9, 2023, and approximately 30 residents attended the meeting. Several concerns were raised regarding potential traffic impact, noise pollution and safety.

## **STANDARDS OF REZONING REVIEW**

### **1. Will the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?**

<b>Adjacent &amp; Nearby Properties</b>	<b>Zoning (Petition Number)</b>	<b>Land Use</b>	<b>Density (SF/Acre)</b>
Application	Proposed: C-1	Commercial (Tim Horton)	1,057 SF/Acre
Adjacent: North	C-1 Conditional (RZ-15-006)	Commercial (Mavis Tires & Brakes)	6,186 SF/Acre
Adjacent: East & South	MIX Conditional (Z-02-077)	Residential (Abberley Towneship)	N/A
Nearby: North	C-1 Conditional (Z-73-085)	Commercial (Advance Auto Parts & North Bridges Shopping Center)	10,000 SF/Acre
Nearby: Northwest	C-1 Conditional (Z-94-081)	Commercial (Public Storage)	6,974 SF/Acre
Nearby: Southwest	C-1 Conditional (RZ-17-011)	Commercial (Johns Creek Center for Arts and Design)	9,091 SF/Acre

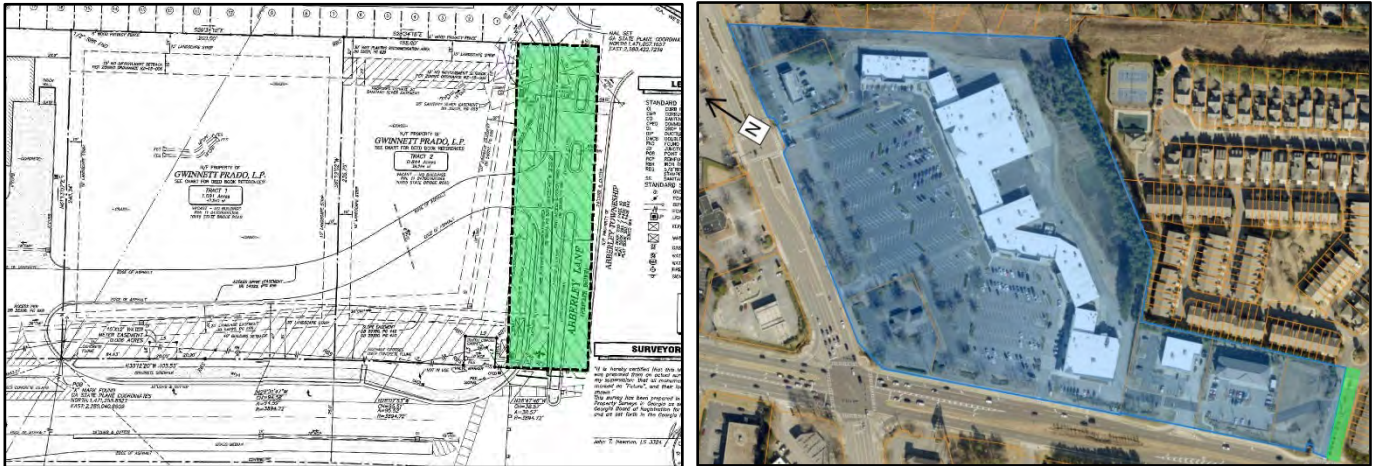
The density of the proposed development is significantly lower than adjacent and nearby commercial properties. As presented in the table above, the presence of adjacent commercial uses and the MIX zoning designation associated with the adjacent residential development, suggests the proposed commercial use would be suitable at this location.

### **2. Will the proposal adversely affect the existing use or usability of adjacent or nearby property?**

The proposed site layout and directional stripping would steer drive-through traffic in a controlled manner to a single direction, while maintaining existing pass-through traffic movement on the shared access driveway. The re-alignment of the shared access driveway would also help to slow down pass-through traffic travelling from the shopping center and adjacent properties towards Abberley Lane.

The Applicant proposes to also construct an 8-foot-tall brick wall along the east property line to mitigate potential impacts associated with noise and lighting from vehicles in the drive-through lanes. Staff is also recommending a condition to replant the 15-foot landscape strip to zoning buffer standards and the 15-foot improvement setback to landscape strip standards along the east property line. The 30-foot planting would provide necessary screening and separation of the drive-through lanes from adjacent residential properties.

Staff would note that in 2003, a non-exclusive, perpetual access easement (shown in green) along Abberley Lane was granted for “pedestrian and vehicular ingress and egress” between the subject property and State Bridge Road. The easement rights extend to all six parcels (shown in blue of the aerial map) consisting of various businesses: Mavis Tires & Brakes, Advance Auto Parts and North Bridges Shopping Center. The easement contains rights and obligations for grantor and grantee, regarding construction, maintenance, modifications, etc. Any dispute between grantor and grantee is a private matter and the City of Johns Creek has no jurisdiction to enforce or modify the existing private easement agreement.



**3. Does the subject property have a reasonable economic use as currently zoned?**

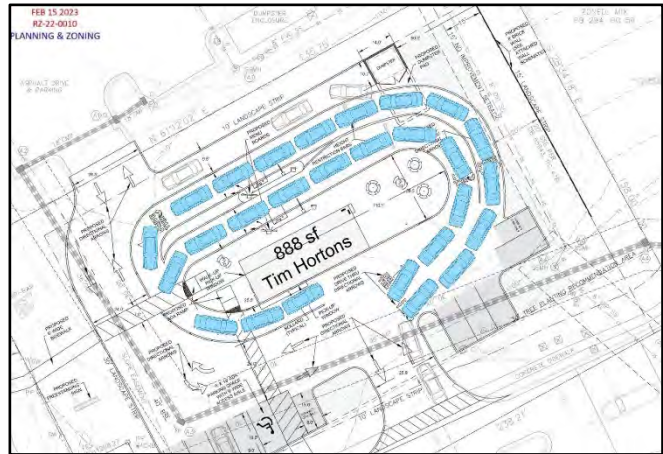
The property appears to have a reasonable economic use as currently zoned.

**4. Will the proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?**

The proposal is expected to generate 238 daily trips, including 45 trips during the morning peak hour and 20 trips during evening peak hour. The proposal would not cause an excessive or burdensome use on State Bridge Road, as State Bridge Road is an arterial road with 31,100 daily vehicular volume.

	AM Peak Hour			PM Peak Hour		
	Total	In	Out	Total	In	Out
<b>Coffee/Donut Shop with Drive-through</b>	90	45	45	39	20	19
<b>50% Reduction for Pass-by Trips</b>	45	22.5	22.5	19.5	10	9.5
<b>Total Net New Trips</b>	45	23	23	20	10	10

Regarding Abberley Lane, the trip generation report shows that 45 cars (including pass-by trips) would enter the site during the morning peak hour (7 a.m. – 9 a.m.) and 20 cars during the evening peak hour (4 p.m. – 6 p.m.). Based on corporate data provided by the Tim Hortons franchise, the average processing time for drive-through is 2 minutes, which implies that approximately 60 cars in total could be served during the 2-hour peak hour. The proposal appears to provide ample stacking of vehicles (27 cars – show in blue) in the drive-through lane to limit excessive impacts to Abberley Lane.



As a supplement to the trip generation report, a queuing analysis was conducted by Kimley-Horn and Associates on behalf of the Applicant, to observe and report on the traffic pattern on Abberley Lane and provide a comparative queuing analysis of a comparable use and similar private road with easement at the Starbucks on 4180 Old Milton Road. Both observations were conducted on a single weekday during the AM peak hour.

**Abberley Lane**

According to the report, the longest observed queue was 3 vehicles in the left-turn lane around 7:30 a.m., and queue cleared during the next signal cycle. School bus pick-up locations as observed are identified in yellow points in the aerial map.

**Starbucks (4180 Old Milton Road)**

The observed Starbucks is located approximately 1.5 miles northwest of the subject property. This site is also accessed from a private street with a shared access easement and adjacent to a residential community. The longest drive-through queue observed was 12 vehicles from 8 a.m. – 8:15 a.m., and it took 7 minutes for the last car in line to be served and exit the drive-through lane.



Both the trip generation report and queuing analysis shows that the proposed development with the ability to stack up to 27 vehicles in the drive-through lanes would exhibit sufficient capacity to accommodate the peak hour demand and would not adversely cause excessive or burdensome use of Abberley Lane.

Additionally, the proposed Tim Hortons coffee shop with drive-through would not burden utilities as Fulton County has confirmed that adequate water and sewer capacity is available to serve this project.

**5. Is the proposal in conformity with the policy and intent of the Comprehensive Plan including the land use element?**

The subject property is located in the Ocee Community Area and the proposal would align with the Comprehensive Plan’s vision for economic development by encouraging the creation of local business within the City. The proposed commercial use would be compliant with the Comprehensive Plan’s



Future Land Use map, which indicates “Commercial – Retail/Shopping Centers” for the subject property. The Tim Hortons would provide a complementary retail/service coffee shop to nearby residential, office, and commercial businesses, and also be in keeping with existing commercial uses found in the area. The proposal as submitted would be in conformance with the policy and intent of the Comprehensive Plan.

**6. Do existing or changed conditions affecting the use and development of the property give supporting grounds for either approval or disapproval of the proposal?**

The existing conditions applicable to the site allows for development of a more intensive commercial use by allowing up to a 4,800-square foot commercial building. The scale and scope of the proposed Tim Hortons with a building size of 888 square feet would provide grounds for approval of this request.

**7. Does the zoning proposal permit a use which can be considered environmentally adverse to the natural resources, environment, and citizens of the City of Johns Creek?**

The environmental site analysis indicates that the site does not contain any environmentally sensitive features and would not present adverse impacts to the area. The Applicant has proposed to construct bio-retention areas on-site and to utilize an existing off-site detention pond to meet the City’s stormwater management requirements.

**STAFF RECOMMENDATION**

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of land use petition, RZ-22-0010, with the following conditions:

1. Use of the subject property shall be limited to retail and service commercial, at a maximum gross building area of 888 square feet. The following uses shall be excluded: automobile repair garages; automotive parking lots; automotive specialty shops; billboards; collecting recycling centers; funeral homes; group residences; indoor/outdoor commercial amusements; laundromats; lawn service businesses; liquor stores; motels/hotels; parking lots; personal care homes or assisted living facilities; repair shops not involving any manufacturing on the site; and service stations.
2. The site shall be developed in general accordance with the site plan received and date stamped by the City of Johns Creek on February 15, 2023. Said site plan is conceptual and the final site plan must meet or exceed the land development regulations and zoning conditions prior to the approval of a land disturbance permit.
3. Exterior elevations shall be substantially similar to the elevations received and date stamped by the City of Johns Creek on March 10, 2023. Final elevations shall be subject to the review and approval of the Community Development Director, prior to issuance of a building permit.
4. Owner/Developer shall plant the 15-foot landscape strip to zoning buffer standards and the 15-foot improvement setback to landscape strip standards along the east property line, in compliance with the City’s Tree Preservation Administrative Guidelines, subject to the approval of the Community Development Director.
5. Owner/Developer shall replant the 30-foot landscape strip along State Bridge Road and 10-foot landscape strip along north and south property lines, in compliance with the Tree Preservation Administrative Guidelines, subject to the approval of the Community Development Director.

6. Owner/Developer shall install along the east property line an 8-foot-tall masonry wall with a brick veneer finish on all sides, in general accordance with the site plan received and date stamped by the City of Johns Creek on February 15, 2023, subject to the approval of the Community Development Director, prior to the issuance of the Certificate of Occupancy.
7. No curb cut shall be permitted on State Bridge Road.
8. No additional curb cut shall be permitted on Abberley Lane.
9. Owner/Developer shall provide sidewalks and crosswalks to connect the building to the existing sidewalk on State Bridge Road and Abberley Lane, as shown on the site plan received and date stamped on February 15, 2023, subject to the approval of the Public Works Director.
10. Owner/Developer shall provide appropriate stripping and signage to aid in the internal traffic flow as shown on the site plan received and date stamped on February 15, 2023, subject to the approval of the Community Development Director.
11. Owner/Developer shall locate the dumpster along the north property line, at minimum 50 feet away from adjacent residential properties, in general accordance with the site plan received and date stamped by the City of Johns Creek on February 15, 2023. Trash collection shall be prohibited between 7:00 p.m. and 9:00 a.m.
12. Owner/Developer shall delineate the perimeter of the outdoor patio with a black-aluminum fence.
13. Owner/Developer shall submit a stormwater concept plan prior to the submittal of a land disturbance permit application.